**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE P.R.RAMAN**

**MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928**

**WP(C).No. 33614 of 2006(B)**
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**PETITIONER:**
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**P.SOMARAJAN, PROPRIETOR,**
**M/S.KAILAS CASHEW EXPORTS,**
**EZHUKONE P.O. KOLLAM.**

**BY ADV. SRI.SERGI JOSEPH THOMAS**

**RESPONDENT:**
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**INTELLIGENCE INSPECTOR, COMMERCIAL TAXES,**
**SQUAD NO.I, KOLLAM**

**BY GOVERNMENT PLEADER SRI.JULIAN XAVIER**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**P.R.RAMAN, J.**

**W.P.(C) NO. 33614 OF 2006**

**Dated this the 18th day of December, 2006**

**J U D G M E N T**

The prayer made in this writ petition is for a direction to the respondent to release the goods and the vehicle bearing No.KL02-X 9100, detained as Exhibit P4.

2. Petitioner is a registered dealer born on the rolls of the Assistant Commissioner (KVAT), Commercial Taxes, Special Circle, Kollam as evidenced by certificate Exhibit P1. The goods in question were transported from the transporting agency to a dealer outside the state namely M/s.Sree Ganesh Traders, Gopipura, Surat. As per Exhibit P4 notice issued under Section 47 (2) of the Kerala Value Added Tax Act, the following defects were noted.

> "The vehicle with goods were interrupted at Kayamkulam on 06.12.2006 at 22.05 hrs. As per the invoice No.65 dated 05.12.2006 supported by D/N No.393339 dated 05/12/2006 2381.400 Kg. Cashew Kernals are seen transferred on consignment basis to M/s.Ganesh Traders 8/1552-53 Gopipura Surat with TIN No.24721401472. The preliminary enquiries conducted has revealed that there is no such dealer in the State of Gujarat dealing in Cashew Kernal bearing the above TIN No. Therefore the transaction is identified as bogus. Hence S/D is demanded."

3. It was the contention of the petitioner that this is a bonafide transfer and as a matter of fact Sri. Ganesh Traders is also a registered dealer under the VAT in Gujarat State. Exhibit P5 is a certificate issued by the Assistant Commissioner of Commercial Tax, Surat dated 08.12.2005 evidencing the fact that Sri.Ganesh Traders is a registered dealer under the VAT holding No.24221401472, which is the same VAT number given in the invoice also. Prima facie therefore the suspicion raised in the notice does not appear to be correct.

4. In the circumstances, there will be a direction to the respondent herein to release the goods on the petitioner furnishing a bond without surety.

Writ petition is disposed of as above.

**P.R.RAMAN, JUDGE**

Rp